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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

10 V.R. and L.M., by and through their  
11 guardian *ad litem* Janely Masvidal, in  
12 each case individually and as a  
13 successor-in-interest to Vinson Ramos,  
deceased.

**Plaintiff,**

VS.

CITY OF BELL and DOES 1-10,  
inclusive.

### Defendants.

Case No. 2:17-cv-05491

## **COMPLAINT FOR DAMAGES**

1. Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)
  2. Fourth Amendment—Excessive Force (42 U.S.C. § 1983)
  3. Fourth Amendment—Denial of Medical Care (42 U.S.C. § 1983)
  4. Substantive Due Process (42 U.S.C. § 1983)
  5. Municipal Liability—Ratification (42 U.S.C. § 1983)
  6. Municipal Liability—Inadequate Training (42 U.S.C. § 1983)
  7. Municipal Liability—Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)
  8. False Arrest/False Imprisonment
  9. Battery (Wrongful Death)
  10. Negligence (Wrongful Death)
  11. Violation of Cal. Civil Code § 52.1

## **DEMAND FOR JURY TRIAL**

## **COMPLAINT FOR DAMAGES**

COME NOW, Plaintiffs V.R. and L.M, by and through their guardian *ad litem* Janely Masvidal, in each case individually and as a successor-in-interest to Vinson Ramos, deceased, for their Complaint against Defendants City of Bell and Does 1-10, inclusive, and allege as follows:

## **JURISDICTION AND VENUE**

8       1. This Court has original jurisdiction pursuant to 28 U.S.C. §§ 1331  
9 and 1333(a)(3)-(4) because Plaintiffs assert claims arising under the laws of the  
10 United States including 42 U.S.C. § 1983 and the Fourth and Fourteenth  
11 Amendments of the United States Constitution. This Court has supplemental  
12 jurisdiction over Plaintiffs' claims arising under state law pursuant to 28 U.S.C. §  
13 1333(a), because those claims are so related to the federal claims that they form part  
14 of the same case or controversy under Article III of the United States Constitution.

15       2.     Venue is proper in this Court under 28 U.S.C. § 1391(b) because  
16 Defendants reside in this district and all incidents, events, and occurrences giving  
17 rise to this action occurred in this district.

## INTRODUCTION

20       3. This civil rights and state tort action seeks compensatory and punitive  
21 damages from Defendants for violating various rights under the United States  
22 Constitution and state law in connection with the fatal officer-involved shooting of  
23 Plaintiff V.R.’s biological father and Plaintiff L.M.’s putative father, Vinson Ramos  
24 (“DECEDENT”), on July 7, 2016.

## PARTIES

27       4. At all relevant times, Decedent Vinson Ramos was an individual  
28 residing in the City of Bell, California.

1       5. Plaintiff V.R., a minor, is an individual residing in the City of Bell,  
2 California and is the natural son of DECEDENT. V.R. sues both in his individual  
3 capacity as the biological son of DECEDENT and in a representative capacity as a  
4 successor-in-interest to DECEDENT pursuant to California Code of Civil Procedure  
5 § 377.60. V.R. seeks both survival and wrongful death damages under federal and  
6 state law.

7       6. Plaintiff L.M. is an individual residing in the City of Bell, California  
8 and is the putative son of DECEDENT. L.M. sues both in his individual capacity as  
9 the putative son of DECEDENT and in a representative capacity as a successor-in-  
10 interest to DECEDENT pursuant to California Code of Civil Procedure § 377.60(c).  
11 L.M., a minor, resided in DECEDENT's household for the 180 days prior to  
12 DECEDENT's death and was dependent on DECEDENT for one-half or more of his  
13 support. L.M. seeks both survival and wrongful death damages under federal and  
14 state law.

15      7. At all relevant times, Defendant CITY OF BELL ("CITY") is and was  
16 a municipal corporation existing under the laws of the State of California. CITY is a  
17 chartered subdivision of the State of California with the capacity to be sued. CITY is  
18 responsible for the actions, omissions, policies, procedures, practices, and customs  
19 of its various agents and agencies, including the Bell Police Department and its  
20 agents and employees. At all relevant times, Defendant CITY was responsible for  
21 assuring that the actions, omissions, policies, procedures, practices, and customs of  
22 the City of Bell Police Department and its employees and agents complied with the  
23 laws of the United States and of the State of California. At all relevant times, CITY  
24 was the employer of Defendants DOES 1-10.

25      8. Defendants DOES 1-5 ("DOE OFFICERS") are officers for the City of  
26 Bell Police Department. DOE OFFICERS were acting under color of law within the  
27 course and scope of their duties as officers for the City of Bell Police Department.  
28

1 DOE OFFICERS were acting with the complete authority and ratification of their  
2 principal, Defendant CITY.

3       9. Defendants DOES 6-8 are supervisory officers for the City of Bell  
4 Police Department who were acting under color of law within the course and scope  
5 of their duties as officers for the City of Bell Police Department. DOES 6-8 were  
6 acting with the complete authority and ratification of their principal, Defendant  
7 CITY.

8       10. Defendants DOES 9-10 are managerial, supervisorial, and  
9 policymaking employees of the City of Bell Police Department, who were acting  
10 under color of law within the course and scope of their duties as managerial,  
11 supervisorial, and policymaking employees for the City of Bell Police Department.  
12 DOES 9-10 were acting with the complete authority and ratification of their  
13 principal, Defendant CITY.

14       11. On information and belief, DOES 1-10 were residents of the City of  
15 Bell.

16       12. In doing the acts and failing and omitting to act as hereinafter  
17 described, Defendants DOE OFFICERS were acting on the implied and actual  
18 permission and consent of Defendants CITY and DOES 6-10.

19       13. In doing the acts and failing and omitting to act as hereinafter  
20 described, Defendants DOES 1-10 were acting on the implied and actual permission  
21 and consent of the CITY.

22       14. The true names and capacities, whether individual, corporate,  
23 association or otherwise of Defendants DOES 1-10, inclusive, are unknown to  
24 Plaintiffs, who otherwise sue these Defendants by such fictitious names. Plaintiffs  
25 will seek leave to amend this complaint to show the true names and capacity of  
26 these Defendants when they have been ascertained. Each of the fictitiously-named  
27 Defendants is responsible in some manner for the conduct or liabilities alleged  
28 herein.

1       15. At all times mentioned herein, each and every defendant was the agent  
2 of each and every other defendant and had the legal duty to oversee and supervise  
3 the hiring, conduct, and employment of each and every defendant.

4       16. All of the acts complained of herein by Plaintiffs against Defendants  
5 were done and performed by said Defendants by and through their authorized  
6 agents, servants, and/or employees, all of whom at all relevant times herein were  
7 acting within the course, purpose, and scope of said agency, service, and/or  
8 employment capacity. Moreover, Defendants and their agents ratified all of the acts  
9 complained of herein.

10      17. DOES 1-10 are sued in their individual capacity.

11

12                   **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

13      18. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
14 through 17 of this Complaint with the same force and effect as if fully set forth  
15 herein.

16      19. On July 7, 2016, at approximately 8:20 a.m., DECEDENT and Ms.  
17 Masvidal (DECEDENT's girlfriend and Plaintiffs' mother) got into a verbal  
18 argument outside of a Jack in the Box restaurant. DECEDENT and Ms. Masvidal  
19 then walked to a nearby 7-Eleven store, where they continued to argue. According  
20 to Ms. Masvidal, DECEDENT was not physically aggressive or assaultive toward  
21 her. Defendants DOE OFFICERS arrived on scene outside the 7-Eleven in response  
22 to a call for service reporting a possible domestic violence situation. DECEDENT  
23 had a small utility knife or box cutter, which he used for work, in his possession.  
24 According to Ms. Masvidal, DECEDENT was not threatening anyone with the  
25 utility knife. Defendants DOE OFFICERS ordered DECEDENT to drop the knife,  
26 and he did not comply. According to witnesses, DECEDENT was pacing back and  
27 forth. When DECEDENT did not comply, an officer-involved shooting occurred.

28

1       20. The use of deadly force against DECEDENT was excessive and  
2 objectively unreasonable under the circumstances, because DECEDENT did not  
3 pose an immediate threat of death or serious bodily injury to anyone at the time of  
4 the shooting.

5        21. Upon information and belief, after being shot, DECEDENT was  
6 immobile, bleeding profusely, and in obvious and critical need of emergency  
7 medical care and treatment. Defendants did not timely summon medical care or  
8 permit medical personnel to treat DECEDENT. The delay of medical care to  
9 DECEDENT caused DECEDENT extreme physical and emotional pain and  
10 suffering, and was a contributing cause of DECEDENT's serious injuries.

11       22. Plaintiffs were dependent on DECEDENT, to some extent, for the  
12 necessities of life.

13        23. Plaintiff V.R. is DECEDENT's successor-in-interest as defined in  
14 Section 377.11 of the California Code of Civil Procedure and succeeds to  
15 DECEDENT's interest in this action as the biological son of DECEDENT. Plaintiff  
16 V.R. timely submitted a tort claim.

17        24. Plaintiff L.M. is DECEDENT's successor-in-interest pursuant to  
18 California Code of Civil Procedure § 377.60(c). L.M., a minor, resided in  
19 DECEDENT's household for the 180 days prior to DECEDENT's death and was  
20 dependent on DECEDENT for one-half or more of his support. Plaintiff L.M.  
21 timely filed an application to submit a late tort claim.

## **FIRST CLAIM FOR RELIEF**

## **Fourth Amendment—Detention and Arrest (42 U.S.C. § 1983)**

(Against Defendants DOE OFFICERS)

26       25. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
27 through 24 of this Complaint with the same force and effect as if fully set forth  
28 herein.

26. Defendants DOE OFFICERS detained DECEDENT without reasonable suspicion and arrested him without probable cause.

27. When Defendants DOE OFFICERS pointed their firearms at DECEDENT, shot DECEDENT, and placed him in handcuffs, they violated DECEDENT's right to be secure in his person against unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

8       28. The conduct of Defendants DOE OFFICERS was willful, wanton,  
9 malicious, and done with reckless disregard for the rights and safety of DECEDEDENT  
10 and therefore warrants the imposition of exemplary and punitive damages as to  
11 Defendants DOE OFFICERS.

12        29. As a result of their misconduct, Defendants DOE OFFICERS are liable  
13 for DECEDENT's injuries, either because they were integral participants in the  
14 wrongful detention and arrest, or because they failed to intervene to prevent these  
15 violations.

16       30. Plaintiffs bring this claim in each case individually and as a successor-  
17 in-interest to the DECEDENT, and seek both survival and wrongful death damages  
18 for the violation of DECEDENT's rights. Plaintiffs also seek attorney's fees.

## **SECOND CLAIM FOR RELIEF**

## **Fourth Amendment — Excessive Force (42 U.S.C. § 1983)**

(Against Defendants DOE OFFICERS)

23       31. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
24 through 30 of this Complaint with the same force and effect as if fully set forth  
25 herein.

26       32. Defendants DOE OFFICERS used excessive force against  
27 DECEDENT when they shot him. Defendants DOE OFFICERS' unjustified  
28 shooting deprived DECEDENT of his right to be secure in his person against

unreasonable searches and seizures as guaranteed to DECEDENT under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

4       33. As a result of the foregoing, DECEDENT suffered great physical pain  
5 and emotional distress up to the time of his death, loss of enjoyment of life, loss of  
6 life, and loss of earning capacity.

7       34. The conduct of Defendants DOE OFFICERS was willful, wanton,  
8 malicious, and done with reckless disregard for the rights and safety of  
9 DECEDENT, and therefore warrants the imposition of exemplary and punitive  
10 damages as to Defendants DOE OFFICERS.

11       35. The shooting was excessive and unreasonable, and DECEDENT posed  
12 no immediate threat of death or serious bodily injury at the time of the shooting.  
13 Further, Defendants DOE OFFICERS' shooting and use of force violated their  
14 training and standard police officer training.

15       36. Plaintiffs bring this claim in each case individually and as a successor-  
16 in-interest to the DECEDENT, and seek both survival and wrongful death damages  
17 for the violation of DECEDENT's rights. Plaintiffs also seek attorneys' fees.

## **THIRD CLAIM FOR RELIEF**

## **Fourth Amendment —Denial of Medical Care (42 U.S.C. § 1983)**

(Against Defendants DOE OFFICERS)

22       37. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
23 through 36 of this Complaint with the same force and effect as if fully set forth  
24 herein.

25       38. The denial of medical care by Defendants DOE OFFICERS deprived  
26 DECEDENT of his right to be secure in his person against unreasonable searches  
27 and seizures as guaranteed to DECEDENT under the Fourth Amendment to the  
28 United States Constitution and applied to state actors by the Fourteenth Amendment.

39. As a result of the foregoing, DECEDENT suffered great physical pain and emotional distress up to the time of his death, loss of enjoyment of life, loss of life, and loss of earning capacity.

40. Defendants DOE OFFICERS knew that failure to provide timely medical treatment to DECEDENT could result in further significant injury or the unnecessary and wanton infliction of pain, but disregarded that serious medical need, causing DECEDENT great bodily harm and death.

8       41. The conduct of DOE OFFICERS was willful, wanton, malicious, and  
9 done with reckless disregard for the rights and safety of DECEDEDENT and therefore  
10 warrants the imposition of exemplary and punitive damages as to Defendants DOE  
11 OFFICERS.

12        42. As a result of their misconduct, Defendants DOE OFFICERS are liable  
13 for DECEDENT's injuries, either because they were integral participants in the  
14 wrongful detention and arrest, or because they failed to intervene to prevent these  
15 violations.

16       43. Plaintiffs bring this claim in each case individually and as a successor-  
17 in-interest to the DECEDENT, and seek both survival and wrongful death damages  
18 for the violation of DECEDENT's rights. Plaintiffs also seek attorney's fees.

## **FOURTH CLAIM FOR RELIEF**

## **Substantive Due Process (42 U.S.C. § 1983)**

**(Against Defendants DOE OFFICERS)**

23       44. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
24 through 43 of this Complaint with the same force and effect as if fully set forth  
25 herein.

26       45. Plaintiffs had a cognizable interest under the Due Process Clause of the  
27 Fourteenth Amendment of the United States Constitution to be free from state  
28 actions that deprive them of life, liberty, or property in such a manner as to shock

1 the conscience, including but not limited to unwarranted state interference in  
2 Plaintiffs' familial relationship with their father, DECEDENT.

3       46. The aforementioned actions of DOE OFFICERS, along with other  
4 undiscovered conduct, shock the conscience, in that they acted with deliberate  
5 indifference to the constitutional rights of DECEDENT and Plaintiffs, and with  
6 purpose to harm unrelated to any legitimate law enforcement objective.

7       47. As a direct and proximate result of these actions, DECEDENT  
8 experienced pain and suffering and eventually died. DOE OFFICERS thus violated  
9 the substantive due process rights of Plaintiffs to be free from unwarranted  
10 interference with their familial relationship with DECEDENT.

11       48. As a direct and proximate cause of the acts of DOE OFFICERS,  
12 Plaintiffs suffered emotional distress, mental anguish, and pain. Plaintiffs have also  
13 been deprived of the life-long love, companionship, comfort, support, society, care,  
14 and sustenance of DECEDENT, and will continue to be so deprived for the  
15 remainder of their natural lives.

16       49. The conduct of DOE OFFICERS was willful, wanton, malicious, and  
17 done with reckless disregard for the rights and safety of DECEDENT and Plaintiffs  
18 and therefore warrants the imposition of exemplary and punitive damages as to  
19 Defendants DOE OFFICERS.

20       50. Plaintiffs bring this claim in each case individually and as a successor-  
21 in-interest to the DECEDENT, and seek both survival and wrongful death damages.  
22 Plaintiffs also seek attorneys' fees.

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## **FIFTH CLAIM FOR RELIEF**

## **Municipal Liability – Ratification (42 U.S.C. § 1983)**

(Against CITY and DOES 6-10)

51. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 50 of this Complaint with the same force and effect as if fully set forth herein.

52. Defendants DOE OFFICERS acted under color of law.

53. The acts of Defendants DOE OFFICERS deprived DECEDENT and Plaintiffs of their particular rights under the United States Constitution.

10        54. Upon information and belief, a final policymaker, acting under color of  
11 law, who had final policymaking authority concerning the acts of Defendants DOE  
12 OFFICERS, ratified Defendants DOE OFFICERS' acts and the bases for those acts.  
13 Upon information and belief, the final policymaker knew of and specifically  
14 approved of DOE OFFICERS' acts.

15        55. Upon information and belief, a final policymaker has determined (or  
16 will determine) that the acts of Defendants DOE OFFICERS were “within policy.”

17       56. By reason of the aforementioned acts and omissions, Plaintiffs have  
18 suffered loss of the love, companionship, affection, comfort, care, society, training,  
19 guidance, and past and future support of DECEDENT. The aforementioned acts and  
20 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,  
21 and death.

22       57. Accordingly, Defendants CITY and DOES 6-10 each are liable to  
23 Plaintiffs for compensatory damages under 42 U.S.C. § 1983 on this claim.

24       58. Plaintiffs bring this claim in each case individually and as a successor-  
25 in-interest to DECEDENT, and seek both survival and wrongful death damages  
26 under this claim. Plaintiffs also seek attorney's fees under this claim.

## **SIXTH CLAIM FOR RELIEF**

## **Municipal Liability – Failure to Train (42 U.S.C. § 1983)**

(Against CITY and DOES 6-10)

59. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 58 of this Complaint with the same force and effect as if fully set forth herein.

60. Defendants DOE OFFICERS acted under color of law.

61. The acts of Defendants DOE OFFICERS deprived DECEDENT and Plaintiffs of their particular rights under the United States Constitution.

10       62. The training policies of Defendant CITY were not adequate to train its  
11 officers to handle the usual and recurring situations with which they must deal.

12       63. Defendant CITY was deliberately indifferent to the obvious  
13 consequences of its failure to train its officers adequately.

14       64. The failure of Defendant CITY to provide adequate training caused the  
15 deprivation of Plaintiffs' rights by Defendants DOE OFFICERS; that is,  
16 Defendants' failure to train is so closely related to the deprivation of the Plaintiffs'  
17 rights as to be the moving force that caused the ultimate injury.

18       65. On information and belief, CITY failed to train DOE OFFICERS  
19 properly and adequately.

20       66. By reason of the aforementioned acts and omissions, Plaintiffs have  
21 suffered loss of the love, companionship, affection, comfort, care, society, training,  
22 guidance, and past and future support of DECEDENT. The aforementioned acts and  
23 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,  
24 and death.

25       67. Accordingly, Defendants CITY and DOES 6-10 each are liable to  
26 Plaintiffs for compensatory damages under 42 U.S.C. § 1983 for this claim.

68. Plaintiffs bring this claim in each case individually and as a successor-in-interest to DECEDENT, and seek both survival and wrongful death damages under this claim. Plaintiffs also seek attorney fees under this claim.

## **SEVENTH CLAIM FOR RELIEF**

## **Municipal Liability – Unconstitutional Custom or Policy (42 U.S.C. § 1983)**

(Against CITY and DOES 6-10)

69. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1 through 68 of this Complaint with the same force and effect as if fully set forth herein.

11 || 70. Defendants DOE OFFICERS acted under color of law.

12        71. Defendants DOE OFFICERS acted pursuant to an expressly adopted  
13 official policy or a longstanding practice or custom of the Defendant CITY.

14       72. On information and belief, Defendants DOE OFFICERS were not  
15 disciplined, reprimanded, retrained, suspended, or otherwise penalized in connection  
16 with DECEDENT's death.

17       73. Defendants CITY and DOE OFFICERS, together with other CITY  
18 policymakers and supervisors, maintained, inter alia, the following unconstitutional  
19 customs, practices, and policies:

- (a) Using excessive force, including excessive deadly force;
  - (b) Providing inadequate training regarding the use of deadly force;
  - (c) Employing and retaining as police officers individuals such as Defendants DOE OFFICERS, who Defendant CITY at all times material herein knew or reasonably should have known had dangerous propensities for abusing their authority and for using excessive force;
  - (d) Inadequately supervising, training, controlling, assigning, and disciplining CITY officers, and other personnel, including

1 Defendants DOE OFFICERS, who Defendant CITY knew or in  
2 the exercise of reasonable care should have known had the  
3 aforementioned propensities and character traits;

- 4 (e) Maintaining grossly inadequate procedures for reporting,  
5 supervising, investigating, reviewing, disciplining and  
6 controlling misconduct by CITY officers, Defendants DOE  
7 OFFICERS;
- 8 (f) Failing to adequately discipline CITY police officers, including  
9 Defendants DOE OFFICERS, for the above-referenced  
10 categories of misconduct, including “slaps on the wrist,”  
11 discipline that is so slight as to be out of proportion to the  
12 magnitude of the misconduct, and other inadequate discipline  
13 that is tantamount to encouraging misconduct;
- 14 (g) Announcing that unjustified shootings are “within policy,”  
15 including shootings that were later determined in court to be  
16 unconstitutional;
- 17 (h) Even where shootings are determined in court to be  
18 unconstitutional, refusing to discipline, terminate, or retrain the  
19 officers involved;
- 20 (i) Encouraging, accommodating, or facilitating a “blue code of  
21 silence,” “blue shield,” “blue wall,” “blue curtain,” “blue veil,”  
22 or simply “code of silence,” pursuant to which police officers do  
23 not report other officers’ errors, misconduct, or crimes. Pursuant  
24 to this code of silence, if questioned about an incident of  
25 misconduct involving another officer, while following the code,  
26 the officer being questioned will claim ignorance of the other  
27 officers’ wrongdoing.

(j) Maintaining a policy of inaction and an attitude of indifference towards soaring numbers of police shootings, including by failing to discipline, retrain, investigate, terminate, and recommend officers for criminal prosecution who participate in shootings of civilians.

6       74. By reason of the aforementioned acts and omissions, Plaintiffs have  
7 suffered loss of the love, companionship, affection, comfort, care, society, training,  
8 guidance, and past and future support of DECEDENT. The aforementioned acts and  
9 omissions also caused DECEDENT's pain and suffering, loss of enjoyment of life,  
10 and death.

11       75. Defendants CITY and DOES 6-10, together with various other  
12 officials, whether named or unnamed, had either actual or constructive knowledge  
13 of the deficient policies, practices and customs alleged in the paragraphs above.  
14 Despite having knowledge as stated above, these defendants condoned, tolerated and  
15 through actions and inactions thereby ratified such policies. Said defendants also  
16 acted with deliberate indifference to the foreseeable effects and consequences of  
17 these policies with respect to the constitutional rights of DECEDEDENT, Plaintiffs,  
18 and other individuals similarly situated.

19       76. By perpetrating, sanctioning, tolerating and ratifying the outrageous  
20 conduct and other wrongful acts, DOES 6-10 acted with intentional, reckless, and  
21 callous disregard for the life of DECEDENT and for DECEDENT's and Plaintiffs'  
22 constitutional rights. Furthermore, the policies, practices, and customs implemented,  
23 maintained, and still tolerated by Defendants CITY and DOES 6-10 were  
24 affirmatively linked to and were a significantly influential force behind the injuries  
25 of DECEDENT and Plaintiffs.

26       77. Accordingly, Defendants CITY and DOES 6-10 each are liable to  
27 Plaintiffs for compensatory damages under 42 U.S.C. § 1983 for this claim.

78. Plaintiffs bring this claim in each case individually and as a successor-in-interest to DECEDENT, and seek both survival and wrongful death damages under this claim. Plaintiffs also seek attorneys' fees under this claim.

## **EIGHTH CLAIM FOR RELIEF**

## **False Arrest/False Imprisonment**

(Against Defendants CITY and DOE OFFICERS)

8       79. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
9 through 78 of this Complaint with the same force and effect as if fully set forth  
10 herein.

11        80. Defendants DOE OFFICERS, while working as officers for the CITY  
12 and acting within the course and scope of their duties, intentionally deprived  
13 DECEDENT of his freedom of movement by use of force, threats of force, menace,  
14 fraud, deceit, and unreasonable duress. DOE OFFICERS detained DECEDENT  
15 without reasonable suspicion and arrested him without probable cause.

16 ||| 81. DECEDENT did not knowingly or voluntarily consent.

17        82. Defendants DOE OFFICERS detained DECEDENT for an appreciable  
18 amount of time.

19       83. The conduct of DOE OFFICERS was a substantial factor in causing the  
20 harm to DECEDEDENT.

21       84. Defendant CITY is vicariously liable for the wrongful acts of  
22 Defendants DOE OFFICERS pursuant to section 815.2(a) of the California  
23 Government Code, which provides that a public entity is liable for the injuries  
24 caused by its employees within the scope of the employment if the employee's act  
25 would subject him or her to liability.

26        85. The conduct of DOE OFFICERS was malicious, wanton, oppressive,  
27 and accomplished with a conscious disregard for the rights of DECEDENT, entitling  
28 Plaintiffs to an award of exemplary and punitive damages.

86. As a result of their misconduct, Defendants DOE OFFICERS are liable for DECEDENT's injuries, either because they were integral participants in the wrongful detention and arrest, or because they failed to intervene to prevent these violations.

87. Plaintiffs bring this claim in each case individually and as a successor-in-interest to DECEDENT, and seek both survival and wrongful death damages under this claim. Plaintiffs also seek attorneys' fees under this claim.

## NINTH CLAIM FOR RELIEF

## Battery

(Wrongful Death)

(Against Defendants CITY and DOE OFFICERS)

13       88. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
14 through 87 of this Complaint with the same force and effect as if fully set forth  
15 herein.

16        89.    DOE OFFICERS, while working as officers for the City of Bell Police  
17 Department, and acting within the course and scope of their duties, intentionally  
18 shot DECEDEDENT multiple times and used unreasonable and excessive force against  
19 him. As a result of the actions of DOE OFFICERS, DECEDEDENT suffered severe  
20 pain and suffering and ultimately died from his injuries. DOE OFFICERS had no  
21 legal justification for using force against DECEDEDENT, and their use of force while  
22 carrying out their duties as police officers was an unreasonable and nonprivileged  
23 use of force.

24        90. As a direct and proximate result of the conduct of DOE OFFICERS as  
25 alleged above, DECEDENT sustained injuries and died from his injuries and also  
26 lost his earning capacity. As a direct and proximate result of the conduct of DOE  
27 OFFICERS as alleged above, DECEDENT suffered survival damages pursuant to  
28 Code of Civil Procedure Section 377.34.

1       91. CITY is vicariously liable for the wrongful acts of Defendants DOE  
2 OFFICERS pursuant to section 815.2(a) of the California Government Code, which  
3 provides that a public entity is liable for the injuries caused by its employees within  
4 the scope of the employment if the employee's act would subject him or her to  
5 liability.

6       92. The conduct of DOE OFFICERS was malicious, wanton, oppressive,  
7 and accomplished with a conscious disregard for the rights of Plaintiffs and  
8 DECEDEDENT, entitling Plaintiffs, in each case individually and as a successor-in-  
9 interest to DECEDEDENT, to an award of exemplary and punitive damages as to  
10 Defendants DOE OFFICERS.

11       93. Plaintiffs bring this claim in each case individually and as a successor-  
12 in-interest to DECEDENT, and seek both survival and wrongful death damages  
13 under this claim. Plaintiffs also seek attorney's fees under this claim.

## **TENTH CLAIM FOR RELIEF**

## Negligence

(Wrongful Death)

(Against all Defendants)

19       94. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
20 through 93 of this Complaint with the same force and effect as if fully set forth  
21 herein.

22        95. Police officers, including Defendants, have a duty to use reasonable  
23 care to prevent harm or injury to others. This duty includes using appropriate tactics,  
24 giving appropriate commands, giving warnings, and not using any force unless  
25 necessary, using less than lethal options, and only using deadly force as a last resort.

26       96. Defendants DOES 1-10 breached this duty of care. Upon information  
27 and belief, the actions and inactions of Defendants DOES 1-10 were negligent and  
28 reckless, including but not limited to:

- (a) the failure to properly and adequately assess the need to detain, arrest, and use force or deadly force against DECEDEDENT;
  - (b) the negligent tactics and handling of the situation with DECEDEDENT, including pre-shooting negligence;
  - (c) the negligent detention, arrest, and use of force, including deadly force, against DECEDEDENT;
  - (d) the failure to provide prompt medical care to DECEDEDENT;
  - (e) the failure to properly train and supervise employees, both professional and non-professional, including DOE OFFICERS;
  - (f) the failure to ensure that adequate numbers of employees with appropriate education and training were available to meet the needs of and protect the rights of DECEDEDENT;
  - (g) the negligent handling of evidence and witnesses; and
  - (h) the negligent communication of information during the incident.

15        97. As a direct and proximate result of Defendants' conduct as alleged  
16 above, and other undiscovered negligent conduct, DECEDED was caused to suffer  
17 severe pain and suffering and ultimately died. Also as a direct and proximate result  
18 of Defendants' conduct as alleged above, Plaintiffs suffered emotional distress and  
19 mental anguish. Plaintiffs also have been deprived of the life-long love,  
20 companionship, comfort, support, society, care and sustenance of DECEDED, and  
21 will continue to be so deprived for the remainder of their natural lives.

22        98. CITY is vicariously liable for the wrongful acts of Defendants DOES  
23 1-10 pursuant to section 815.2(a) of the California Government Code, which  
24 provides that a public entity is liable for the injuries caused by its employees within  
25 the scope of the employment if the employee's act would subject him or her to  
26 liability.

99. Plaintiffs bring this claim in each case individually and as a successor-in-interest to DECEDENT, and seek wrongful death and survival damages under this claim. Plaintiffs also seek attorney's fees under this claim.

## **ELEVENTH CLAIM FOR RELIEF**

**(Violation of Cal. Civil Code § 52.1)**

(Against Defendants CITY and DOE OFFICERS)

8       100. Plaintiffs repeat and re-allege each and every allegation in paragraphs 1  
9 through 99 of this Complaint with the same force and effect as if fully set forth  
10 herein.

11       101. California Civil Code, Section 52.1 (the Bane Act), prohibits any  
12 person from using violent acts or threatening to commit violent acts in retaliation  
13 against another person for exercising that person's constitutional rights. The  
14 California Civil Code, Section 52.1(b) authorizes a private right of action for  
15 damages to any person whose constitutional rights are violated. Moreover, "a  
16 successful claim for excessive force under the Fourth Amendment provides the basis  
17 for a successful claim under § 52.1." *Chaudhry v. City of Los Angeles*, 751 F.3d  
18 1096, 1105-06 (9th Cir. 2014); citing *Cameron v. Craig*, 713 F.3d 1012, 1022 (9th  
19 Cir. 2013) ("[T]he elements of the excessive force claim under § 52.1 are the same  
20 as under § 1983."); *Bender v. Cnty. of L.A.*, 217 Cal. App. 4th 968, 976 (2013) ("an  
21 unlawful [seizure]—when accompanied by unnecessary, deliberate and excessive  
22 force—is [] within the protection of the Bane Act").

23        102. On information and belief, Defendants DOE OFFICERS, inclusive,  
24 while working for the CITY and acting within the course and scope of their duties,  
25 intentionally committed and attempted to commit acts of violence against  
26 DECEDENT, including by shooting him without justification or excuse, by  
27 integrally participating and failing to intervene in the above violence, and by  
28 denying him necessary medical care.

1       103. When Defendants shot DECEDENT, they interfered with his civil  
2 rights to be free from unreasonable searches and seizures, to due process, to equal  
3 protection of the laws, to medical care, to be free from state actions that shock the  
4 conscience, and to life, liberty, and property.

5       104. As alleged above, DOE OFFICERS detained DECEDENT without  
6 reasonable suspicion and arrested DECEDENT without probable cause. Also as  
7 alleged above, DOE OFFICERS unjustly shot DECEDENT at a time he posed no  
8 threat of death or serious bodily injury. Furthermore, DOE OFFICERS coerced,  
9 intimidated, and threatened DECEDENT. It was not necessary to shoot  
10 DECEDENT in order to take DECEDENT into custody.

11       105. On information and belief, Defendants intentionally and spitefully  
12 committed the above acts to discourage DECEDENT from exercising his civil  
13 rights, to retaliate against him for invoking such rights, or to prevent him from  
14 exercising such rights, which he was fully entitled to enjoy.

15       106. On information and belief, DECEDENT reasonably believed and  
16 understood that the violent acts committed by Defendants DOE OFFICERS were  
17 intended to discourage him from exercising the above civil rights, to retaliate against  
18 him for invoking such rights, or to prevent him from exercising such rights.

19       107. Defendants successfully interfered with the above civil rights of  
20 DECEDENT and Plaintiffs.

21       108. The conduct of Defendants was a substantial factor in causing  
22 Plaintiffs' harms, losses, injuries, and damages.

23       109. CITY is vicariously liable for the wrongful acts of Defendants DOE  
24 OFFICERS, inclusive pursuant to section 815.2(a) of the California Government  
25 Code, which provides that a public entity is liable for the injuries caused by its  
26 employees within the scope of the employment if the employee's act would subject  
27 him or her to liability.

28

1       110. Defendants DOES 6-10 are vicariously liable under California law and  
2 the doctrine of *respondeat superior*.

3       111. The conduct of Defendants was malicious, wanton, oppressive, and  
4 accomplished with a conscious disregard for DECEDENT's and Plaintiffs' rights,  
5 justifying an award of exemplary and punitive damages as to Defendants DOE  
6 OFFICERS.

7       112. Plaintiffs bring this claim in each case individually and as a successor-in-interest to DECEDENT, and seek both survival and wrongful death damages  
8 under this claim. Plaintiffs also seek attorney's fees under this claim.  
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## **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiffs V.R. and L.M., by and through their guardian ad  
3 litem Janely Masvidal, request entry of judgment in their favor and against  
4 Defendants City of Bell and Does 1-10, inclusive, as follows:

- A. For compensatory damages in whatever amount may be proven at trial, including both survival damages and wrongful death damages under federal and state law;
  - B. For funeral and burial expenses, and loss of financial support;
  - C. For punitive damages against the individual defendants in an amount to be proven at trial;
  - D. For statutory damages;
  - E. For interest;
  - F. For reasonable attorneys' fees, including litigation expenses;
  - G. For costs of suit; and
  - H. For such further other relief as the Court may deem just, proper, and appropriate.

18 | DATED: July 25, 2017

## LAW OFFICES OF DALE K. GALIPO

Bv \_\_\_\_\_ *s/Renee V. Masongsong*  
Dale K. Galipo  
Renee V. Masongsong  
Attorneys for Plaintiffs

1                           **DEMAND FOR JURY TRIAL**  
2

3  
4 Plaintiffs hereby demand a trial by jury.  
5  
6

DATED: July 25, 2017

LAW OFFICES OF DALE K. GALIPO

7                           Bv \_\_\_\_\_ *s/Renee V. Masongsong*  
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Dale K. Galipo  
Renee V. Masongsong  
Attorneys for Plaintiffs

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